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THE

# INTERIM

A REPORT OF INTERIM ACTIVITY . . . MONTANA LEGISLATIVE COUNCIL . . . HELENA

JULY 1984

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VOL. IV, NO. 14

## CAPITOL BUILDING AND PLANNING

RENOVATION  
UNDERWAY

The sounds of jackhammers and masonry saws are now added to those of lawnmowers and weed eaters as summer sounds at the Capitol. Repair and renovation of the building's exterior is now well underway. Workers have begun on the south side of the building patching some spalling sandstone where possible and removing large pieces of badly deteriorated material for replacement where necessary. On the north side of the building, new ramps provide handicapped access for the first time at both east and west front entrances. Work on the concrete portion of a walkway across from the main front stairway has also been completed. This work when finished will improve the looks of the front of the building and prevent the unwanted parking that was common despite the yellow lines.

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JULY 30  
MEETING  
DATE SET

## JOINT INTERIM SUBCOMMITTEE NO. 2

July 30 is the date chosen for the next meeting of Subcommittee No. 2 in Room 104 of the Capitol. The meeting will convene at 8:00 a.m., at which time the subcommittee will continue its work on the study of the management of state forest lands. At 10:00 a.m., the subcommittee will take up the subject of navigability and continue with this work for the remainder of the day.

FOREST  
LAND FIRE  
PROTECTION  
FEES  
CONSIDERED

On the state forest lands study, the subcommittee will continue consideration of a proposal to equalize fire protection responsibility with the U.S. Forest Service. Also on the agenda will be raising from 16 cents per acre the annual charge that may be assessed against private forest land for fire protection and an increase in the appropriation to the Division of Forestry to finance expanded timber sales and increase the annual cut from state lands.

PUBLIC TRUST  
DOCTRINE TO  
BE CONSIDERED

The subcommittee will begin its work on the navigability study with a presentation on and discussion of the public trust doctrine and its implications on legislative activity (particularly as it relates to the navigability issue). John Thorsen, Council of State Governments, and Margery Brown, Professor of Law, University of Montana, will be leading this discussion. (They will be giving a similar presentation to the Select Committee on Water Marketing on July 12 - 13 in Billings. See related article.)

The public trust doctrine is particularly applicable to the study because the Montana Supreme Court, in both the Dearborn and Beaverhead Rivers decisions, used the doctrine as one of the bases for the right of the public to use Montana waters for recreation. (In the June Interim, we reported that the Montana Supreme Court ruled in favor of the Coalition in the case of Montana Coalition for Stream Access v. Dennis Michael Curran. On June 21, the same court again ruled in favor of the Coalition, this time in the case of Montana Coalition for Stream Access v. Lowell S. Hildreth, involving the question of the rights of the public to use the Beaverhead River for recreational purposes. In the latter case, unlike the former, the question of streambed ownership was, in the court's words, "not at issue" and was "immaterial to the determination of the public's right of use".)

TESTIMONY ON  
RECREATIONAL  
USE

Following the public trust discussion, the subcommittee will take testimony from interested persons on the recreational use subject.

PROPOSALS  
TO BE  
FORMULATED

In the afternoon, the subcommittee will attempt to begin developing recommendations for state policy on this subject. Issues that have been mentioned informally by committee members as needing further discussion include: high water-mark definition; prescriptive easements; trespass laws; water recreation management; and liability laws. These are not inclusive.

REVENUE OVERSIGHT COMMITTEE

MEETING HELD  
JUNE 7

The Revenue Oversight Committee met on June 7 and discussed a variety of issues including liquor licensing, railroad and airline valuation, property tax exemptions for religious, educational, and purely public charity purposes, timber tax-

ation, and reappraisal. The Committee requested several bill drafts regarding liquor licensing and property tax exemptions. Representative Dean Switzer was welcomed as the new Committee member replacing Representative Ken Nordtvedt.

NEXT MEETING  
AUGUST 24-25

The Committee postponed the July 20-21 meeting until August 24-25. A specific agenda has not yet been set for the August meeting, but the Committee has requested staff reports on railroad valuation and on legal issues involved in railroad taxation.

Dave Bohyer has been assigned as staff researcher for the Revenue Oversight Committee. He may be reached at the Legislative Council.

#### COAL TAX OVERSIGHT SUBCOMMITTEE

LEGACY  
PROGRAM  
PROPOSAL

Review of a proposal to create a Natural Resource Legacy Program, funded from the Resource Indemnity Tax Trust, was completed during the meeting at Billings on June 18 - 19.

STATE PARKS  
AND  
EDUCATIONAL  
USES FOR THE  
COAL TAX  
PROPOSED

The subcommittee heard proposals from the Department of Fish, Wildlife, and Parks to fund operations and maintenance of all state parks from the coal severance tax and from the Office of Public Instruction to allocate \$4.2 million per biennium from the interest on the coal tax constitutional trust to fund vocational education and adult basic education.

COAL TAX  
HEARING  
TESTIMONY  
REVIEWED

The subcommittee also reviewed the testimony on the severance tax rate given at the January 19 hearing. Participating were representatives of the coal industry and of the governor's office.

COUNTY LAND  
PLANNING FUND  
USE CHANGES  
PROPOSED

In the statutory allocations of coal severance tax funds, the Department of Commerce requested an amendment that would expand the acceptable uses of the county land planning funds.

ARTS COUNCIL  
PROCEDURES  
HEARD

The Montana Arts Council reported on its procedures for approving grants and for monitoring uses of coal severance tax funds.

AUGUST 9-10  
DATE SET  
FOR BILLINGS  
TO DISCUSS  
TENNECO PLANT

The subcommittee heard a report on the status of Tenneco's plans for a coal gasification plant at Wibaux and set August 9 - 10 as the tentative dates to meet with the North Dakota Tenneco Impact Committee in Billings and to visit the site of the Montco mine development near Ashland.

COAL AREA  
TOURED  
JUNE 20

On June 20, the subcommittee and other legislators visited Westmoreland Resources' Absaloka Mine and Western Energy's Rosebud Mine and Colstrip Power Plants as guests of the companies.

#### ENVIRONMENTAL QUALITY COUNCIL

COLSTRIP  
VISITED

The Environmental Quality Council got a firsthand look at natural resource development in the Colstrip area during a meeting on June 1. EQC members viewed reclamation plots and mining at the Western Energy Company mine and also toured the Colstrip 3 and 4 power plants and the fly-ash pollution control pond. At the EQC public meeting following the tour, discussion centered on the environmental review process for coal strip mines in Montana.

EQC  
SUBCOMMITTEES  
TO MEET  
JULY 10

The EQC Natural Resources Oversight Subcommittee will meet in Helena on July 10 in Room 104 of the Capitol, with a tentative starting time of 8:30 a.m. The subcommittee will review the proposed Major Facility Siting Act rules and the proposed Natural Resource Legacy Program for allocation of funds from the Resource Indemnity Tax trust. The subcommittee will also receive updates on hard-rock mining proposals in Montana and on the activities of the Hard-Rock Impact Board.

The EQC Toxic Substances Subcommittee will participate in the morning session on the Natural Resource Legacy Program because of the program's implications for hazardous waste management. At 1:30 p.m., subcommittee members will hold a working session with the directors of the Montana Weed Control Association to discuss possible changes in Montana weed laws. This meeting will be held in Room 225 of the Department of Agriculture Building

#### SELECT COMMITTEE ON WATER MARKETING

BILLINGS  
SEMINAR  
SCHEDULED  
JULY 13-14

The Select Committee on Water Marketing will hold a meeting at the Sheraton Hotel in Billings on July 13-14. The committee meeting, structured as a seminar on water management policy options, has been organized in cooperation with the Lincoln Institute of Land Policy. A number of water policy experts have been invited to discuss topics including interstate allocation of water, water export, water marketing options, coal slurry, and

recent legal actions affecting water marketing. The meeting is scheduled to start at 9 a.m., Friday, and conclude at 4:30 p.m., Saturday.

#### LEGISLATIVE FINANCE COMMITTEE

##### DD HOME SETTING

The Legislative Finance Committee reviewed the program for placing developmentally disabled people in a home setting. It was determined that a natural home, as well as a foster home placement, was within the intent of the legislature. Thirty children should be utilizing this program by the end of fiscal 1985 at an annualized cost of approximately \$400,000 per year.

##### MENTAL HEALTH PROGRAMS

Community mental health programs were reviewed. The Committee felt the state had a responsibility to ensure that community mental health services are available for more than just the seriously mentally ill. However, no action was taken at this time on whose responsibility it is to fund the services.

##### WELFARE ASSUMPTION PROGRAM

The county welfare assumption program was reviewed. Twelve counties -- Cascade, Deer Lodge, Flathead, Lake, Lewis and Clark, Lincoln, Mineral, Missoula, Park, Ravalli, and Silver Bow -- opted for assumption in 1984. Powell County will be assumed in fiscal 1985. The major area of discussion was the general assistance program which is costing more than SRS anticipated at the beginning of fiscal 1984. Also, the Butte Community Union has filed charges that the state has failed "to meet even the bare necessities of life with its general assistance grant" and challenges the use of unpublished general assistance policies to determine general assistance payment levels in state-assumed counties. If the existing published payment levels in the SRS rules are applied, SRS estimates the potential additional cost to be approximately \$2 million over the current fiscal 1984 budget.

##### HEALTH CARE COST CONTAINMENT

The Health Care Cost Containment Subcommittee meets June 29 to discuss the existing nursing home formula, the proposals and systems available to control hospital costs, and the eligibility requirements and optional medicaid services offered by Montana compared to other western states. A consultant, Bruce Spitz from Brandeis University, will discuss medicaid cost-saving measures.

# LEGISLATIVE INTERIM CALENDAR

SUNDAY

MONDAY

TUESDAY  
JULY

WEDNESDAY

THURSDAY

FRIDAY

SATURDAY

1

2

3

4  
INDEPENDENCE  
DAY

5

6

7

8

9

10  
EOC - Rm.104  
Natural Res.  
Subcomm. AM  
Toxic Subs.  
Subcomm. PM

11

12

13  
Select Comm.  
Marketing -  
Billings  
Legis. Finance  
Comm. - Rm 104

14  
on Water  
Sheraton Hotel

15

16

17

18

19

20

21

22

23

24

N C S L  
ANNUAL MEETING  
IN BOSTON

25

26

27

28

29

30  
Subcomm. #2  
Rm 104-8am

31

\*all meetings are subject to change



# LEGISLATIVE INTERIM CALENDAR

AUGUST

SUNDAY

MONDAY

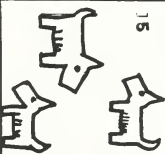
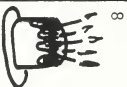
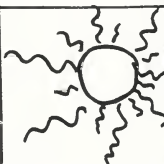
TUESDAY

WEDNESDAY

THURSDAY

FRIDAY

SATURDAY



Coal Tax Oversight Comm.  
Billings

Revenue Oversight Comm.  
Rm. 104

\*all meetings are subject to change

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